

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2000-0042-C - ORDER NO. 2000-0502

JUNE 15, 2000

IN RE: Application of ACN Communication	)	ORDER
Services, Incorporated For A Certificate of	)	GRANTING
Public Convenience and Necessity to Provide	)	CERTIFICATE FOR
Resold Interexchange Telecommunications	)	LONG DISTANCE
Services Within the State of South Carolina	)	AUTHORITY

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of ACN Communication Services, Inc. ("ACN" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold intrastate interexchange telecommunications services between and among locations within the State of South Carolina as a non facilities-based interexchange telecommunications service provider. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-520 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed ACN to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of ACN's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the

Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on May 17, 2000, at 2:30 p.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Philip T. Bradley, Chairman, presided. ACN was represented by Kevin A. Hall, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff.

Kim McDonald, Chief Operating Officer for ACN and the parent company, American Communications Network, Inc., appeared and testified in support of the Application. According to the testimony, Ms. McDonald is responsible for all of ACN's non-finance oriented matters in the United States and Canada for the provision of telecommunications services. ACN is a Michigan corporation that has received authority to transact business as a foreign corporation from the Secretary of State of South Carolina. After receiving certification from this Commission, ACN will provide interLATA toll resale and intraLATA toll resale, toll free services, calling card services and access to directory assistance to residential and small business customers. ACN plans to offer its services statewide. According to the testimony, ACN, at the time of the hearing, was not yet operating in any state but had received authorization to provide telecommunications services in forty-one states, with intentions of applying in all other states to provide services as a switchless reseller. Ms. McDonald stated ACN planned a Beta launch in mid June, 2000, in the states where it is certificated, with intentions of going into live production in July, 2000. She said ACN planned a similar timeframe for offering services in South Carolina.

According to Ms. McDonald, ACN has the technical and managerial ability to provide telecommunications services in South Carolina. Her testimony states the Company's management team is comprised of individuals with extensive technical and telecommunications experience and expertise. Ms. McDonald, Chief Operating Officer, has over fifteen years of experience in the telecommunications industry in a variety of positions including management of product development, business operations development and retail services. Some of the other officers of the Company include Caroline Roberts, Vice President, Business and Product Development, who has over nine years of telecommunications experience in product and business development and implementation; and Karen Lewis, Vice President of Operations, who has more than ten years experience in the telecommunications industry, mostly in applications development and billing systems.

As to the Company's technical abilities to provide interexchange telecommunications services in the State of South Carolina, Ms. McDonald testified that ACN's billing will be managed in-house, implemented by a well-known billing software system widely used in the telecommunications industry. Ms. McDonald stated ACN will send the rated calls to an outside party to be printed and distributed. The Company's name and customer service telephone number will appear on the bill. ACN's customer service and complaints contact is Lance Beck who is located at 411 Third Street, Gwinn, Michigan 49841, telephone number (906) 346-4059.

Ms. McDonald offered that ACN will subscribe to transmission services provided by other facilities-based carriers. ACN intends to resell services utilizing the network of

Global Crossing as its underlying carrier for its interexchange services in South Carolina. She further stated that ACN will use two methods to authorize a customer's switching from another carrier to ACN: (1) Letter of Authorization on a hard copy paper form with signatures; and (2) an electronic Letter of Authorization using a third party verification vendor whereby the customer can call and electronically provide all pertinent information; the call must be made from the number being switched in order for the transaction to be sent to ACN. Ms. McDonald testified ACN will target the residential and small business market in South Carolina. She stated ACN will use independent contractors of its parent company who will acquire customers through friends, acquaintances, and family members; that ACN does not intend to do any telemarketing in South Carolina. She stated ACN will do no "cold calling" of any kind and that the Company is aware of the Commission's marketing guidelines. According to Ms. McDonald, ACN has not yet marketed its services in South Carolina. ACN's regulatory contact is Lisa Lezotte who is located at 32991 Hamilton Court, Farmington Hills, Michigan, telephone number (248) 699-3314.

Regarding the Company's financial ability to provide telecommunications services in South Carolina, Ms. McDonald testified that ACN is financially well qualified, through the assets of its parent company, to provide telecommunications services in South Carolina. She further testified ACN's parent company is American Communications Network, Incorporated. Ms. McDonald also offered that the financial resources available to ACN are adequate to permit the Company to offer the services described in its application. The financial statements submitted with the application

indicate that as of December 31, 1998, ACN's current assets totaled \$94,605,427 and its total current liabilities totaled \$59,482,196. The record reveals Jane Diorka is Vice President/Controller of ACN.

ACN will have customer service representatives who may be reached directly twenty-four hours a day, seven days a week. Customers will be able to call the Company at a toll free customer service number which will be printed on the customers' monthly billing statements. That number is 877-ACN-1010. The Company's customer service representatives will be prepared to respond to a broad range of service matters, including inquiries regarding the types of services offered by ACN and its rates, billing questions, and any problems or concerns the customer may have. The record reveals each complaint will be fully investigated and resolved as soon as possible. In addition, the Company provides its own billing to customers.

According to the application and Ms. McDonald, ACN requests a waiver of Commission regulation 26 S. C. Code Ann. Regs. 103-610 (Supp. 1999) which requires a company to keep its books and records within the State of South Carolina. ACN further requests that it be exempt from any record-keeping rules that might require it to maintain its financial records in conformance with the Uniform System of Accounts. ANC offered that it maintained its book of accounts in accordance with Generally Accepted Accounting Principals ("GAAP"). ACN asserts that the Commission will have a reliable means to evaluate its operations under GAAP.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. ACN is organized as a corporation under the laws of the State of Michigan. That authority was granted April 30, 1999. ACN is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. ACN provides facilities-based and resold interexchange services and wishes to provide its services in South Carolina.
3. ACN has the experience, capability, and financial resources to provide the services as described in its Application.

**CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to ACN to provide facilities-based and resold intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.
2. The Commission adopts a rate design for ACN for its interexchange services which includes only maximum rate levels for each tariff charge. A rate structure

incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. ACN shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. ACN shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

4. If it has not already done so by the date of issuance of this Order, ACN shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. ACN is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. ACN shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If ACN changes underlying carriers, it shall notify the Commission in writing.

8. ACN shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment B, a two page document titled "Annual Information on South Carolina Operations for Interexchange Companies and AOS". Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. ACN shall file the names, addresses and telephone numbers of these representatives with the



Commission within thirty (30) days of receipt of this Order. Attachment A shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, ACN shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dial parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

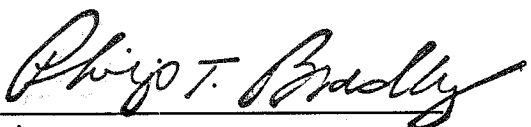
11. ACN requested waivers from certain Commission regulations and requirements. Specifically, ACN requested waivers from (1) any requirement to maintain books and records in compliance with the USOA and (2) the requirement contained in Rule 103-610 that all records be kept within the state of South Carolina. For good cause shown, the Commission finds and concludes that ACN should be granted waivers, as requested, from (1) maintaining books and records in compliance with the USOA, and (2) the requirement contained in Reg. 103-610 that records be kept within the State of South Carolina. ACN has shown that it will maintain its books and records using GAAP which will allow the Commission to evaluate ACN's finances, if necessary. ACN has indicated that it will make its records available for inspection upon request by the Commission if allowed to keep books and records at its principal place of business in Michigan. The Commission hereby grants ACN's request of the waiver of 26 S.C. Code Ann. Regs.

(Supp. 1999) and has permission to keep its records in Michigan; and further, the Commission grants ACN's request to maintain its books and records under GAAP.

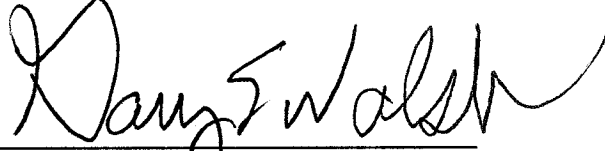
12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)

JUNE 15, 2000

ATTACHMENT A

**AUTHORIZED UTILITY REPRESENTATIVE INFORMATION**

## PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION

103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

---

Company Name ( Including dba Name(s) or Acronyms used or to be used in South Carolina)

---

Business Address

---

City, State, Zip Code

A.

---

General Manager Representative (Please Print or Type)

---

Telephone Number / Facsimile Number / E-mail Address

B.

---

Customer Relations (Complaints) Representative (Please Print or Type)

---

Telephone Number / Facsimile Number / E-mail Address

C.

---

Engineering Operations Representative (Please Print or Type)

---

Telephone Number / Facsimile Number / E-mail Address

D.

---

Test and Repair Representative (Please Print or Type)

---

Telephone Number / Facsimile Number / E-mail Address

E.

---

Contact for Emergencies During Non-Office Hours (Please Print or Type)

---

Telephone Number / Facsimile Number / E-mail Address

F.

---

Financial Representative (Please Print or Type)

---

Telephone Number / Facsimile Number / E-mail Address

G.

---

Customer Contact Telephone Number for Company (Toll Free)

---

This form was completed by

---

Signature

If you have any questions, contact the Consumer Services Department (803-896-5230)  
or Utilities Department at (803-896-5105).

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS  
FOR INTEREXCHANGE COMPANIES AND AOS'**

---

**COMPANY NAME**

**FEIN**

---

**ADDRESS**

**PHONE NUMBER**

---

**CITY, STATE, ZIP CODE**

**FAX NUMBER**

1. **SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING  
DECEMBER 31, 2000 OR FISCAL YEAR. \$** \_\_\_\_\_
2. **SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING  
DECEMBER 31, 2000 OR FISCAL YEAR. \$** \_\_\_\_\_
3. **RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS FOR THE 12 MONTHS  
ENDING DECEMBER 31, 2000 OR FISCAL YEAR:**

**Gross Plant in located or allocated to South Carolina operations \$** \_\_\_\_\_

**CWIP located in or allocated to South Carolina operations \$** \_\_\_\_\_

**Land located in or allocated to South Carolina operations \$** \_\_\_\_\_

**Accumulated Depreciation of South Carolina Plant (\$** \_\_\_\_\_ **)**

**Net Rate Base located in or allocated to South Carolina operations \$** \_\_\_\_\_

4. **PARENT'S CAPITAL STRUCTURE FOR THE 12 MONTHS ENDING  
DECEMBER 31, 2000 OR FISCAL YEAR:**

**LONG TERM DEBT \$** \_\_\_\_\_

**EQUITY \$** \_\_\_\_\_

5. **PARENT'S AVERAGE RATE OF INTEREST ON LONG TERM DEBT** \_\_\_\_\_ **%.**

DOCKET NO. 2000-0042-C – ORDER NO. 2000-0502

JUNE 15, 2000

ATTACHMENT B

---

**6. CONTACT PERSON FOR ALL FINANCIAL INQUIRES AND REPORTING:**

**NAME** \_\_\_\_\_

**ADDRESS IF DIFFERENT FROM COMPANY** \_\_\_\_\_

**TELEPHONE NUMBER** \_\_\_\_\_

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS**

**FOR INTEREXCHANGE COMPANIES AND AOS'**

- 7. ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3 ABOVE)(USE BACK IF NEEDED).**

**NAME OF OFFICER SIGNING FORM (PRINT OR TYPE)** \_\_\_\_\_

**SIGNATURE** \_\_\_\_\_

**TITLE** \_\_\_\_\_